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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

JEROME WEATHINGTON
BOP# 08121-028

DOCKET NO. 09-CV-705, SEC. P

VERSUS

JUDGE DEE D. DRELL

UNITED STATES FEDERAL BUREAU
OF PRISONS, ET AL.

MAGISTRATE JUDGE JAMES D. KIRK

JUDGMENT

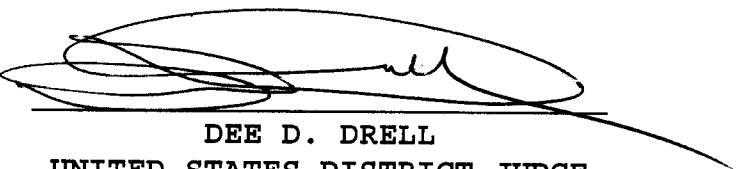
For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein and after a de novo review of the record, including the objections filed by the plaintiff, having determined that the findings and recommendation are partially correct under the applicable law;

IT IS ORDERED that Plaintiff's civil rights complaint be and is hereby **DENIED** and **DISMISSED WITH PREJUDICE** as frivolous and failing to state a claim for which relief can be granted pursuant to 28 U.S.C. §1915(e) (2) (b).

IT IS FURTHER ORDERED that proof now being shown that plaintiff's administrative claim has been denied by the Bureau of Prisons, the Report and Recommendation is not adopted as to the Federal Tort Claims Act claim. Subsequent action has now vested the Court with jurisdiction. See, e.g., Beran v. United States,

751 F. Supp. 886 (D.D.C. 1991); Campbell v United States, 534 F. Supp. 762 (D. Haw. 1982). Accordingly, the Federal Tort Claims Act claim is referred to the magistrate judge for further consideration.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 23rd day of December, 2009.


DEE D. DRELL
UNITED STATES DISTRICT JUDGE